

PUBLIC ACCESS EASEMENT AGREEMENT
(including Urban Coastal Greenway)

This Public Access Easement (“Agreement”) is made this ____ day of _____, 2024, by and between Thames Street Nashua, LLC, a New Hampshire limited liability company, a New Hampshire corporation with an address of 670 North Commercial Street, Manchester, New Hampshire 03101, and its successors and assigns, (hereinafter referred to as “OWNER”) and the TOWN OF BRISTOL, a municipal corporation in the State of Rhode Island, whose address is 10 Court Street, Bristol, Rhode Island 02809 (hereinafter referred to as “Town of Bristol”).

WHEREAS, OWNER owns that certain real estate located on the westerly side of Thames Street in Bristol, Rhode Island, and further described on Exhibit A attached (“Premises”).

WHEREAS, OWNER plans to develop the Premises as a mixed use development, including 127 residential apartments and up to 6,300 square feet of commercial space (the “Project”);

WHEREAS, the Master Plan Approval for the Project was set forth in a Decision of the Planning Board dated May 16, 2022 and recorded on May 16, 2022 in Book 2172 at Page 297 of the Bristol Land Evidence Records (“Master Plan Decision”) and the Preliminary Plan Approval for the Project was set forth in a Decision of the Planning Board dated July 14, 2023 and recorded on July 14, 2023 in Book 2217 at Page 90 of the Bristol Land Evidence Records (“Preliminary Plan Decision”) (The Master Plan Decision and the Preliminary Plan Decision are sometimes collectively referred to herein as the “Approvals”); and

WHEREAS, the Premises are located on the harbor in Bristol, RI and have a panoramic view of same;

WHEREAS, OWNER is planning to construct a public access area, comprised of a paved or brick sidewalk on the westerly side of the Premises, as shown on the attached plan described “PUBLIC ACCESS EASEMENT (WIDTH VARIES +/- 8230 SF”on Exhibit “B” attached hereto (hereinafter referred to as the “Promenade”);

WHEREAS, the Promenade includes a paved or brick sidewalk of eight feet (8’) in width, except only five feet (5’) in width where it intersects with the southwest corner of the building that is the Town of Bristol Maritime Welcome Center;

WHEREAS, the Bristol Planning Board, in accordance with the Town of Bristol’s Comprehensive Plan, is seeking public access to the harbor side of the Premises and the OWNER is able to provide said access from the Town’s Maritime Welcome Center located to the north side of the Premises;

WHEREAS, the Town of Bristol and the Owner have entered into an Agreement with the Bristol County Lodge #1860 of the Benevolent and Protective Order of Elks of the United State of America (“Elks”) on an Easement for public access from Constitution Street across Elks property ;located on Assessors Plat 10, Lot 63 to the Promenade at the south side of the Premises “Elks Easement”); and

WHEREAS, the parties hereto agree that the proposed use of the Premises, including the Promenade, remain an attractive and safe place for the residents of the Premises; and

WHEREAS, the Town of Bristol agrees that OWNER shall retain private ownership, maintenance responsibilities, and general control of the Premises.

NOW, THEREFORE, in consideration of One Dollar (\$1.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, OWNER hereby GRANTS to the Town of Bristol, in common with Grantor, a permanent, non-exclusive Easement

for the purposes of ingress and egress by foot over and across the Promenade as shown on the Site Plan attached as Exhibit B, to have and to hold such Easement hereby granted to the said Grantee and its successors and assigns, and being subject to any easements or rights of way of record.

The Grantee's use in the above-described Easement shall be subject to the following conditions:

1. The general public shall be allowed to use the Promenade in common with the residents, and their guests, subject to the following restrictions, prohibitions, limitations, terms and conditions which shall apply to the use of the Promenade by the general public:

- (a) The Promenade shall be open to the public seven (7) days a week at least during the hours of 6:00 a.m. to 11:00 p.m.. Access to the Promenade by the general public shall be from the Maritime Welcome Center property located on the north side of the Premises and adjacent to the Promenade as well as on the south side of the Premises pursuant to the Elks Easement.
- (b) There may be signs erected setting forth the times of closing and the other restrictions set forth herein. Closure may be indicated by temporary barriers but no permanent gates may be erected.
- (c) OWNER shall have the right to close the Promenade to the public at any times which, in OWNER's sole discretion, are necessary to order to protect public health, safety, welfare or the environment, including, but not limited to, the occurrence of (i) power outages; (ii) security reasons associated with visits by dignitaries; (iii) risk to the integrity of the Promenade; (iv) adverse weather

conditions including, but not limited to, fog, ice, wind, snow, hail, or sleet; or (v) occasionally, from time to time, for initial construction, maintenance, or repair of the improvement so the Premises, including the Promenade itself to protect the public from harm as a result of construction or repair hazards; provided that on all occasions that the Promenade is closed pursuant to this subparagraph, the Promenade is also closed to residents.

(d) The Promenade shall in no event be used by the general public for the following uses and activities:

1. Excessive noise or audible radio/CD/MP3 players, or through any audio device;
2. Consumption of alcohol and/or smoking;
3. Nudity or inappropriate dress;
4. Vulgar or profane language;
5. Harassment of others, as determined in the reasonable discretion of OWNER;
6. Use of motorized vehicles of any kind except where necessary to transport handicapped or disabled people;
7. Bicycles, skateboards, rollerblades, in-line skates, or other similar vehicles and all such vehicles shall be walked across the Promenade;
8. Swimming or diving off the Promenade;
9. Boarding or unboarding of boats or other water-faring vehicles;
10. Congregations or demonstrations;
11. Kite flying;

12. Fishing; OR,

13. Use of folding or other types of lawn chairs.

Notwithstanding the above-enumerated restrictions, OWNER may impose other specific restrictions on the use of the Promenade which are necessary for the quiet enjoyment of the Promenade and/or the quiet enjoyment of the residential uses of the Premises, provided that the Town of Bristol, by and through its Town Council, shall consent in advance to such restrictions.

- (e) When major events are held on or over Bristol Harbor, including but not limited to fireworks displays, which events may lead to dangerous overcrowding of the Promenade, the Owner may close the Promenade to the public (but not to the residents and their respective guests) from three (3) hours before sunset, or 6:00 p.m., whichever is earlier until the end of such event. Furthermore, on the night of July 3rd, and the night prior to the 4th of July Parade if held on a day other than the 4th, due to parade crowds, the Owner may close the Promenade at 9:30 p.m. subject to the above limitations.
- (f) Additionally, for not more than four (4) 17-hour periods per calendar year, consistent with normal hours of 6:00 a.m. to 11:00 p.m., which may NOT include any holidays and the days before and after, OWNER may close the Promenade and use the same at any time, upon forty-eight (48) hours' notice to Town of Bristol, and public notice, which may be by posting at the site, for itself and its residents and guests for any use or activity including, but not limited to, such uses and activities that are restricted or prohibited for the general public by this Agreement.

(g) Temporary barriers may be erected by OWNER when the Promenade is closed pursuant to sub paragraphs (c), (e) and (f) above.

2. OWNER shall initially construct the Promenade as provided hereunder at its sole cost and expense as shown on Exhibit B. Subsequent to such initial construction thereof, the OWNER shall be obligated to maintain, repair and restore the Promenade in good and workmanlike condition and repair to the reasonable satisfaction of the Town of Bristol using the same or better-quality materials of construction (collectively, the “Repair Work”).

In the event that the OWNER fails under its obligations to do and complete the repair Work within thirty (30) days of written notice from the Town of Bristol; or within such extensions to complete the work as OWNER shall reasonably request, then the Town of Bristol may take over or complete the Repair Work as deemed necessary in its reasonable discretion in order to preserve the integrity of the Promenade and the Premises and the cost of such repair work, including reasonable attorney’s fees, will be reimbursed by the OWNER, and shall be a lien on the property of the OWNER. Any such action by the Town of Bristol at any time shall not relieve the OWNER of its then current or any continuing obligations to do and complete said Repair Work. Notwithstanding anything to the contrary contained herein, there shall be no obligation for the Town of Bristol to take over or complete any such Repair Work, and the failure to do so shall not expose the Town of Bristol to any additional liability hereunder.

3. The Town of Bristol may not assign or otherwise transfer its rights hereunder, without the prior written consent of OWNER; any such attempt to do so shall immediately terminate this Agreement without any further action required hereunder and shall terminate all rights and remedies of the Town of Bristol with respect hereto. Upon written notice, OWNER may assign its rights hereunder to related entities, purchaser(s) or mortgagee(s) of the Premises, without

the prior written consent of the Town of Bristol or any such other party, subject to the public Promenade remaining and the terms of this Agreement.

4. In accordance with R.I.G.L. Title 32, Chapter 6, OWNER and the Town of Bristol agree that OWNER, by directly or indirectly inviting or permitting any person to use the Promenade under this Agreement, does not (i) assure that the Promenade is safe for any purpose; (ii) confer upon that person the legal status of an invitee or licensee to whom a duty of care is owed; nor (iii) assume responsibility for or incur liability for any injury to any person or property caused by an act or omission of that person.

5. It is understood and agreed to by the parties hereto that OWNER shall retain full ownership and general control of the Promenade, subject to the provisions hereof. It is the intent of the parties that this Agreement reflect the obligations of the parties as to the manner in which the Promenade shall be operated by OWNER and accessed by the public.

6. The parties agree that all insurance carried by either party, if any, shall contain a clause denying the insurer rights of subrogation against the other party. Neither party shall be liable to the other or to any insurer (by way of subrogation or otherwise) insuring the other party for any loss or damage to the Premises or any other property if said loss or damages are covered by insurance benefiting the party suffering such loss. In consideration of the public access to the Promenade, the Town of Bristol shall indemnify and hold harmless OWNER from and against any and all claims, suits and liabilities (including reasonable legal fees and costs), other than those due to OWNER's negligence, arising from or in connection with any use of the Promenade at any time by any person or persons, except for such times as the Promenade may be closed pursuant to Section 1(e) and 1(f) above. The Town of Bristol shall enforce violations by the general public of the prohibitions, restrictions and limitations set forth in this Agreement.

7. This Agreement is specifically conditioned upon the OWNER receiving all necessary permits and approvals from the Town of Bristol and the State of Rhode Island for the construction of the Project as substantially set forth in the Approvals. The Promenade shall be completed and open to the public by the time that 50% of the units of the Project have certificates of occupancy or December 31, 2028, whichever may come first.

8. The Owner and the Town of Bristol agree to make reasonable amendments to this Agreement if required by any Public Access Agreements entered into by OWNER and the Coastal Resources Management Council, provided that such amendments do not impair the intent and purposes of the Approvals or this Agreement.

9. Any notice required or given pursuant to this Agreement must be in writing and shall be deemed to have been properly given or served by personal delivery or by sending same by overnight courier or by depositing same in the United States Mail, postpaid and registered or certified, return receipt requested. Each notice shall be effective upon being personally delivered or upon being sent by overnight courier or upon being deposited in the United States Mail as aforesaid. The time period in which a response to such notice must be given or any action taken with respect thereto (if any), however, shall commence to run from the date of receipt if personally delivered or sent by overnight courier, or if so deposited in the United States Mail, the earlier of the three (3) business days following such deposit or the date of receipt as disclosed on the return receipt. Rejection or other refusal to accept or the inability to deliver because of changed address for which no notice was given shall be deemed to be receipt of the notice sent. By giving at least Fifteen (15) days prior notice thereof, the OWNER or the Town of Bristol shall have the right from time to time and at any time during the term of this Agreement to change their respective addresses

and each shall have the right to specify as its address any other address within the United State of America.

Notice to the Town of Bristol shall be sent to the attention of the Town Administrator, 10 Court Street, Bristol, RI 02809, with a copy to the Town Solicitor, c/o Ursillo, Teitz, & Ritch, Ltd. 2 Williams Street, Providence, RI 02903. Notice to OWNER shall be sent to its resident agent as maintained by the Rhode Island Secretary of State, as well as to the Manager and the General Counsel Marc Pinard. Esq., both at 670 North Commercial Street, Manchester, NH 03101.

Executed under seal this ____ day of _____, 2024.

THAMES STREET NASHUA, LLC

By: _____
ARTHUR SULLIVAN, MANAGER

STATE OF _____
COUNTY OF _____

In the City/Town of _____ on this ____ day of _____, 2024, before me personally appeared ARTHUR SULLIVAN, Manager of Thames Street Nashua, LLC, to me known and known by me or proved to me through satisfactory evidence to be the party executing the foregoing instrument on behalf of said limited liability company, and acknowledged that he executed said instrument with proper authority for the purpose state therein as his free act and deed in said capacity and the free act and deed of said limited liability company.

NOTARY PUBLIC
Print Name: _____
My commission expires: _____

**TOWN OF BRISTOL,
BY ITS DIRECTOR OF COMMUNITY
DEVELOPMENT, ADMINISTRATIVE
OFFICER OF THE BRISTOL PLANNING
BOARD**

By: _____
DIANNE M. WILLIAMSON

**STATE OF RHODE ISLAND
COUNTY OF BRISTOL**

In the Town of Bristol on this _____ day of _____, 2024, before me personally appeared DIANE M. WILLIAMSON, Director of Community Development, Administrative Officer of the Bristol Planning Board of the Town of Bristol, to me known and known by me or proved to me through satisfactory evidence to be the party executing the foregoing instrument, on behalf of the Town of Bristol and acknowledged that she executed said instrument with the proper authority for the purpose stated therein as her free act and deed in said capacity and the free act and deed of the Town of Bristol.

NOTARY PUBLIC
Print Name: _____
My commission expires: _____